APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,220	03/29/2004	Don R. James JR.	200313892-1	3034

22879   7590   06/25/2009
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EXAMINER
WU, JUNCHUN

ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
06/25/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2009*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,15-17,19-22 and 24-27* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-7,15-17,19-22 and 24-27* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This office action is in response to amendment filed on April 15, 2009.

2.   Claims 1-7, 15-17, 19-22 and 24-27 are pending in this application.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1, 3-5 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mullen et al. (US Pub. No. 20040243997 A1, hereinafter "Mullen"), in view of Deshpande et al.

(US Pub. No. 20030218628 A1, hereinafter "Deshpande").

Per claim 1

Mullen discloses

A method for controlling program installation on a computing device, the method comprising:

- an installer program that executes on the computing device determining the type of an

    original operating system currently installed on the computing device ([0028] "The

    installation program 52 *then processes (at block 156) the application/OS configuration*

    list 56 to determine the operating system configuration settings" & [0023] "***FIG. 3***

    illustrates information maintained in the application/OS configuration list **56**. *The*

*application/OS configuration list **56** may include entries **80,** where <u>each entry identifies</u>*

<u>*an operating system*</u> *or application program"*).

- the installer program that executes on the computing device determining the type of a

  new operating system that a user is attempting to install on the computing device to

  replace the original operating system from information stored within a software package

  that comprises the new program operating system ([0009] "*The application configuration*

  setting information is processed to determine application configuration settings included

  in the computer for the at least one preexisting application program and the determined

  application configuration settings are copied to application configuration settings in the

  second file directory, *wherein the installed at least one application program that executes*

  with the second operating system uses the configuration settings copied to the second file

  directory." & [0023] "***FIG. 3** illustrates information maintained in the application/OS*

  *configuration list **56.** The application/OS configuration list **56** may include entries **80,***

  where <u>each entry identifies an operating system</u> or application program").

But Mullen does not disclose

- the installer program that executes on the computing device comparing on the computer

  device the types of the original and new operating systems to determine whether

  installation of the new operating system is authorized.

- the installer program that executes on the computing device preventing installation of the

  new operating system if the types are not the same.

However, Deshpande discloses

- the installer program that executes on the computing device comparing on the computer

  device the types of the original and new operating systems to determine whether

  installation of the new operating system is authorized ([0028] "*A determination is made*

  as to whether the device is validated by comparing the retrieved attributes against

  attributes required for the installation of the software patch 15, 16, and 17 (step 106)....

  The attributes retrieved from the target device 20 may include an architecture attribute

  30, an OS attribute 31, and a target application attribute 33. As noted previously, the

  operating system attribute 31 and target application attribute 33 may be identical in

  situations where the software the patch is targeted to an operating system. If the

  comparison of the attributes indicates that the target device 20 meets the required

  validation parameters (step 106), the patch module proceeds to a dependency check for

  the selected software patch (step 108)" & wherein attribute includes operating system

  type teaches on [0027] "*The operating system attribute 31 indicates the operating system*

  type (i.e.: Unix™, Window™, Linux, etc.) and the version of the operating system (i.e.:

  Solaris™. 7.0) running on the selected target device. The target application attribute 33

  indicates the version of the target application software that the patch is designed to

  update.").

- the installer program that executes on the computing device preventing installation of the

  new operating system if the types are not the same ([0028] "*Alternatively, if the*

  comparison of the attributes reveals that the attributes are not acceptable (step 106) the

  device is not validated and an appropriate error message detailing the cause of the

  validation failure is displayed to the user 2 (step 110).").

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time

    the invention was made to modify teaching of Mullen with the teachings of Deshpande to

    include the installer program that executes on the computing device comparing on the

    computer device the types of the original and new operating systems(software patches as

    indicated by Deshpande) to determine whether installation of the new operating system

    (new patch) is authorized and the installer program that executes on the computing device

    preventing installation of the new operating system (new patch) if the types are not the

    same in order to validate the target device. The system administrator must ensure that the

    system architecture, operating system, and target application are all the correct version

    for the intended patch. The user performing the installation must have a proper

    authorization to perform the procedure. Upon verification that the software required for

    the software patch is installed on the target device, the software patch is installed. (see

    Deshpande [0003] & [0005]).

Per claim 3

the rejection of claim 1 is incorporated and Mullen further discloses

- determining the type of an original operating system comprises determining the type of

    an operating system that is embedded in rewritable, solid-state memory of a terminal

    computer. ([0019] *A service processor may include application programs to perform*

    operations such as system monitoring and maintenance for the storage system in which

    the processor is embedded. " & [0031] *"a computer readable medium, such as magnetic*

    storage medium (e.g., hard disk drives, floppy disks, tape, etc.), optical storage (CD-

ROMs, optical disks, etc.), volatile and non-volatile memory devices (e.g., EEPROMs,

ROMs, PROMS, RAMS, DRAMS, SRAMs, firmware, programmable logic, etc.)" &

reference to claim 4 of Mullen's invention).

Per claim 4

the rejection of claim 1 is incorporated and Mullen further discloses

- determining the type of an original operating system comprises determining the

  configuration of an operating system that is embedded in re-writable, solid-state memory

  of a terminal computer (reject the same reason as claim 3 above).

Per claim 5

the rejection of claim 1 is incorporated and Mullen further discloses

- determining the type of an original operating system comprises reading information

  stored in a management interface of the computing device ([0024] *i.e. OS configuration*

  setting and application configuration setting are stored in the file system. The file system

  which is resided in memory where the management interface is located).

Per claim 25

the rejection of claim 1 is incorporated and Mullen further discloses

- the computing device receiving the software package from a software source via a

  network, wherein the software package contains the installer program ([0030]

  "Alternatively, the service technician may use the computer 2 to access a network

location from which the installation packages can be downloaded to apply to the

computer 2.”).

- the computing device identifying the installer program contained in the software package ([0027] *“FIG. 5 illustrates logic implemented in the installation program 52 to install the components in the system installation package 50. ”*).

- the computing device installing the installer program on the computing device prior to determining whether installation of the new program is authorized ([0027] *“During the installation, the preexisting operating system and applications may continue to run and perform operations while the new components 58 and 60 (FIG. 4) are being installed.”*)

5.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen, in view of Deshpande, and further view of Herrick (US Pub. No.20040181790 A1).

Per claim 2

the rejection of claim 1 is incorporated

But Mullen and Deshpande do not disclose

- determining the versions of the original operating system and the new operating system.

However, Herrick discloses

- determining the versions of the original operating system and the new operating system ([0026] *“identify versions or configurations of installed software on a computer for which it is desired to verify the currency of the installed software.”* & *configuration of software implicitly included the software or program type*).

■ Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Mullen and Deshpande and further include determining the configuration of an existing program comprises determining at least one of a program type and version, and determining the configuration of a new program comprises determining at least one of a program type and version by the teachings of Herrick in order to identify versions may be compared to an identified build level to determine compliance.

6.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen, in view of Deshpande, and further view of Delgado et al. (US Pub. No. 20050066324 A1, hereinafter "Delgado") and Ahuje (US Patent No. 6,122,732).

Per claim 6

the rejection of claim 1 is incorporated

But Mullen and Deshpande do not disclose

■ determining the type of an original operating system comprises reading a program type and version from an original equipment manufacturer (OEM) string of a desktop management interface (DMI) of the computing device.

However Delgado discloses

■ determining the configuration of an existing program comprises reading a program type and version from an original equipment manufacturer (OEM) ([0044] "the storage media would include all the software necessary to install the retail and original equipment manufacturer (OEM) versions of a professional version, a home version, a student and

teacher edition, and foreign language editions of the word processor application." &

[0069] "different versions may include different type…").

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time

  the invention was made to combine teachings of Herrick and Deshpande and further

  include determining the configuration of an existing program comprises reading a

  program type and version from an OEM by the teachings of Delgado in order to use

  OEM version expecting software to be installed by a computer reseller so it requests no

  information during installation. Typically, OEM version and retail version of software

  product have different installation behaviors (Delgado, [0003]).

Furthermore, Delgado does not disclose

- Comprising OEM string of a desktop management interface (DMI) of the computing

  device.

However Ahuje discloses

- OEM string of a desktop management interface (DMI) (col.5 lines 1-3 & lines 20-25.

  Ahuje discloses the structure of flash ROM and relationship between OEM string and

  desktop management interface /system management basic input output system

  (DMI/SMBIOS)).

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time

  the invention was made to combine teachings of Herrick, Deshpande, Delgado and

  further include comprising OEM string of a desktop management interface (DMI) of the

  computing device by the teachings of Ahuje in order to query management information

  format (MIF) database of a computer system and determine the software and hardware

configuration of the system easily and quickly by system administrator using MIF and

DMI/SMBIOS associated with OEM string. The MIF contains all information about the

computer system and its component such as installation of the new software and

hardware (col.1 lines 53-59).

7.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen, in view of

Deshpande and further view of Kadam et al. (US Pub. No. 20030079126 A1, hereinafter

"Kadam").

Per claim 7

the rejection of claim 1 is incorporated

But Mullen and Deshpande do not disclose

- determining the type of a new operating system comprises reading configuration

  information from a header associated with the new operating system.

However Kadam discloses

- determining the configuration of a new program comprises reading configuration

  information from a header associated with the new program ([0029] *"Software*

  installation package 302 includes self-extracting header, installation program, user

  credentials, and software binaries.").

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time

  the invention was made to combine teachings of Mullen and Deshpande and further

  include determining the configuration of a new program comprises reading configuration

  information from a header associated with the new program by the teachings of Kadam in

order to use the data and programs within software installation package (Kadam, [0030]

"Self-extracting header includes executable computer code, which is used to uncompress

data and programs within software installation package").

8.   Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick,

in view of Deshpande.

Per claim 15

Herrick discloses

A computer-readable medium that stores a installer program, the installer program comprising:

- logic configured to execute on a user computer and determine on the user computer the

  type of an existing operating system installed on the user computer ([0009] *"The target*

  computer may have an executable program thereon for automatically determining the

  currency of software installed on the target computer" & [0023] *"**FIG. 3** illustrates*

  *information maintained in the application/OS configuration list **56**. The application/OS*

  *configuration list **56** may include entries **80**, where <u>each entry identifies an operating</u>*

  <u>system</u> or application program").

- logic configured to execute on the user computer and determine on the user computer the

  type and version of a new operating system that has been downloaded to the user

  computer ([0056] *"once the command line processing has been completed, the update*

  program may download a desired build list to allow comparison between the versions of

  the actual installations to be accomplished on the target computer").

- logic configured to execute on the user computer and compare on the user computer the types of the new and existing operating systems ([0009] *"The target computer may have an executable program thereon for automatically determining the currency of software installed on the target computer, comparing the currency of the installed software to a desired configuration list stored on the administrative computer, and obtaining installation software from a library server including necessary updates, upgrades and patches for installation on the target computer."*)

But Herrick does not disclose
- logic configured execute on the user computer and to determine that installation of the new operating system is not authorized when the types are not the same.
- logic configured to execute on the user computer and prevent installation of the new operating system when it is determined that installation is not authorized.

However, Deshpande discloses
- logic configured execute on the user computer and to determine that installation of the new operating system is not authorized when the types are not the same and logic configured to execute on the user computer and prevent installation of the new operating system when it is determined that installation is not authorized ([0028] *"Alternatively, if the comparison of the attributes reveals that the attributes are not acceptable (step 106) the device is not validated and an appropriate error message detailing the cause of the validation failure is displayed to the user 2 (step 110)."*).
- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify teaching of Herrick with the teachings of Deshpande to include logic configured execute on the user computer and to determine that installation

of the new operating system is not authorized when the types are not the same and logic

configured to execute on the user computer and prevent installation of the new operating

system when it is determined that installation is not authorized in order to validate the

target device. The system administrator must ensure that the system architecture,

operating system, and target application are all the correct version for the intended patch.

The user performing the installation must have a proper authorization to perform the

procedure. Upon verification that the software required for the software patch is installed

on the target device, the software patch is installed. (see Deshpande [0003] & [0005]).

Per claim 19

the rejection of claim 15 is incorporated and Deshpande further discloses

- logic configured to install the new operating system and replace the existing operating

   system when installation is authorized [0028] "*A determination is made as to whether the*

   device is validated by comparing the retrieved attributes against attributes required for

   the installation of the software patch 15, 16, and 17 (step 106).... The attributes retrieved

   from the target device 20 may include an architecture attribute 30, an OS attribute 31,

   and a target application attribute 33. As noted previously, the operating system attribute

   31 and target application attribute 33 may be identical in situations where the software

   the patch is targeted to an operating system. If the comparison of the attributes indicates

   that the target device 20 meets the required validation parameters (step 106), the patch

   module proceeds to a dependency check for the selected software patch (step 108)").

9.   Claims 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick,

in view of Deshpande and further view of Mullen.

Per claim 16

the rejection of claim 15 is incorporated

Herrick and Deshpande do not disclose

- logic configured to determine the type of an existing operating system comprises logic
  configured to read configuration information stored in a management interface of the
  computing device.

- However Mullen discloses
  logic configured to determine the type of an existing operating system comprises logic
  configured to read configuration information stored in a management interface of the
  computing device ([0024] *i.e. OS configuration setting and application configuration
  setting are stored in the file system. The file system which is resided in memory where the
  management interface is located*).

- The feature of providing logic configured to determine the type of an existing operating
  system comprises logic configured to read configuration information stored in a
  management interface of the computing device would be obvious for the reasons set forth
  in the rejection of claim 3.

Per claim 26

the rejection of claim 15 is incorporated

Herrick and Deshpande do not disclose

- the installer program comprises part of a software package that is configured for download to the user computer, the software package further including the new operating system such that the installer program will be run on the user computer when the new operating system is downloaded to the user computer and a user attempts to install the new operating system on the user computer.

But Mullen discloses

- the installer program comprises part of a software package that is configured for download to the user computer, the software package further including the new operating system such that the installer program will be run on the user computer when the new operating system is downloaded to the user computer and a user attempts to install the new operating system on the user computer ([0030] "*Alternatively, the technician may use the computer to download and execute the installation package from a remote computer over a network. The invoked installation program then displays (at block 206) installation version information 54 (FIG. 2) to request acknowledgment to proceed with installation of package components. If (at block 208) the version is what the technician intended, then the technician selects to proceed with the installation from the determined installation package.*").

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine teachings of Herrick and Deshpande and further include the installer program comprises part of a software package that is configured for download to the user computer, the software package further including the new operating system such that the installer program will be run on the user computer when the new

operating system is downloaded to the user computer and a user attempts to install the

new operating system on the user computer by the teachings of Mullen in order to use

technician to schedule a reboot operation after installation to occur at a time of low usage

for the computer, so that the newly installed operation system and application occurs with

minimal interruption to the computer operations (see [0030]).

10.   Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick, in view

of Deshpande and further view of Kadam.

Per claim 17

the rejection of claim 15 is incorporated

Herrick and Deshpande do not disclose

- the logic configured to determine the type of a new operating system comprises logic

  Configured to read configuration information from a header associated with the new

  operating system.

But Kadam discloses

- the logic configured to determine the type of a new operating system comprises logic

  Configured to read configuration information from a header associated with the new

  operating system ([0029] *"Software installation package 302 includes self-extracting*

  header, installation program, user credentials, and software binaries.").

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time

  the invention was made to combine teachings of Herrick and Deshpande and further

  include determining the configuration of a new program comprises reading configuration

information from a header associated with the new program by the teachings of Kadam in

order to use the data and programs within software installation package (Kadam, [0030]

"Self-extracting header includes executable computer code, which is used to uncompress

data and programs within software installation package").

11.   Claims 20, 21, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mullen, in view of Deshpande.

Per claim 20

Mullen discloses

- A computing device, comprising: a processor; and memory comprising a previously-

  installed operating system, a management interface that comprises information that

  describes the type and version of previously-installed the operating system ([0019] *"The*

  computer further includes an operating system and operating system configuration

  setting..." & See Fig. 4).

an installer program configured to

- determine the type of the previously-installed operating system from the information of

  the management interface ([0028] *"The installation program 52 then processes (at block*

  156) the application/OS configuration list 56 to determine the operating system

  configuration settings" & [0023] *"**FIG. 3** illustrates information maintained in the*

  *application/OS configuration list **56**. The application/OS configuration list **56** may*

  *include entries **80**, where* <u>*each entry identifies an operating system*</u> *or application*

  program").

- determine the type of a new operating system with which a user is attempting to replace the previously-installed operating system from information stored within a software package that contains the new operating system ([0009] "*The application configuration setting information is processed to determine application configuration settings included in the computer for the at least one preexisting application program and the **determined** application configuration settings are copied to application configuration settings **in the second file directory**, wherein the installed at least one application program that executes with the second operating system uses the configuration settings copied to the second file directory.*" & [0023] "***FIG. 3** illustrates information maintained in the application/OS configuration list **56**. The application/OS configuration list **56** may include entries **80,** where <u>each entry identifies an operating system</u> or application program*").

But Mullen does not disclose

- compare the types of the new and previously-installed operating systems and determine that installation of the new operating system is not authorized if the types of the new and previously-installed operating system are not the same.

- prevent installation of the new operating system if it is determined that installation is not authorized.

However, Deshpande discloses

- compare the types of the new and previously-installed operating systems and determine that installation of the new operating system is not authorized if the types of the new and previously-installed operating system are not the same and prevent installation of the new

operating system if it is determined that installation is not authorized ([0028]

"Alternatively, if the comparison of the attributes reveals that the attributes are not

acceptable (step 106) the device is not validated and an appropriate error message

detailing the cause of the validation failure is displayed to the user 2 (step 110).").

- Therefore, Therefore, it would have been obvious to a person of ordinary skill in the art at

  the time the invention was made to modify teaching of Mullen with the teachings of

  Deshpande to include compare the types of the new and previously-installed operating

  systems and determine that installation of the new operating system is not authorized if

  the types of the new and previously-installed operating system are not the same and

  prevent installation of the new operating system if it is determined that installation is not

  authorized in order to validate the target device. The system administrator must ensure

  that the system architecture, operating system, and target application are all the correct

  version for the intended patch. The user performing the installation must have a proper

  authorization to perform the procedure. Upon verification that the software required for

  the software patch is installed on the target device, the software patch is installed. (see

  Deshpande [0003] & [0005]).

Per claim 21

the rejection of claim 20 is incorporated

Mullen further discloses

- the memory comprises re-writable, solid-state memory and wherein the previously-

  installed operating system is embedded within the solid-state memory ([0019] *"A service*

processor may include application programs to perform operations such as system

monitoring and maintenance for the storage system in which the processor is embedded.

" & [0031] *"a computer readable medium, such as magnetic storage medium (e.g., hard*

disk drives, floppy disks, tape, etc.), optical storage (CD-ROMs, optical disks, etc.),

volatile and non-volatile memory devices (e.g., EEPROMs, ROMs, PROMS, RAMS,

DRAMS, SRAMs, firmware, programmable logic, etc.)" & reference to claim 4 of

Mullen's invention).

Per claim 24

the rejection of claim 20 is incorporated and further, Mullen discloses

- the computing device is a terminal computer that does not comprise a hard drive ([0019]

  "The computer 2 may include any computing device known in the art").

Per claim 27

the rejection of claim 20 is incorporated and further, Mullen discloses

- the installer program comprises part of the software package such that the installer

  program will be run on the user computer when the new operating system is downloaded

  to the user computer from a software source and a user attempts to install the new

  operating system on the computing device ([0030] *"Alternatively, the service technician*

  may use the computer 2 to access a network location from which the installation

  packages can be downloaded to apply to the computer 2. The technician diagnosis the

situation and determines (at block 202) the version of the installation package 50 to

apply....").

12.   Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen, in view

of Deshpande, and further view of Delgado and Ahuje.

Per claim 22

the rejection of claim 20 is incorporated and Mullen and Deshpande do not disclose

- the management interface comprises a desktop management interface (DMI) and the

  configuration information is stored in an original equipment manufacturer (OEM) string

  contained within the DMI.

However Delgado discloses

- configuration information is stored in an original equipment manufacturer (OEM) ([0044]

  "the storage media would include all the software necessary to install the retail and

  original equipment manufacturer (OEM) versions of a professional version, a home

  version, a student and teacher edition, and foreign language editions of the word

  processor application." & [0069] *"different versions may include different type...").*

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time

  the invention was made to combine teaching of Mullen and Delgado and further to

  include configuration information is stored in an original equipment manufacturer (OEM)

  by the teachings of Delgado in order to use OEM version expecting software to be

  installed by a computer reseller so it requests no information during installation.

> Typically, OEM version and retail version of software product have different installation
>
> behaviors (Delgado, [0003]).

Furthermore Mullen, Deshpande and Delgado do not disclose

- the management interface comprises a desktop management interface (DMI) and OEM
  string contained within the DMI.

However Ahuje discloses

- the management interface comprises a desktop management interface (DMI) and OEM
  string contained within the DMI (col.5 lines 1-3 & lines 20-25).

- Therefore, it would have been obvious to a person of ordinary skill in the art at the time
  the invention was made to combine teachings of Mullen, Deshpande and Delgado and
  further include comprising the management interface comprises a desktop management
  interface (DMI) and OEM string contained within the DMI by the teachings of Ahuje in
  order to query management information format (MIF) database of a computer system and
  determine the software and hardware configuration of the system easily and quickly by
  system administrator using MIF and DMI/SMBIOS associated with OEM string. The
  MIF contains all information about the computer system and its component such as
  installation of the new software and hardware (col.1 lines 53-59).

Response to Arguments

Applicant's arguments filed on Apr. 15, 2009 have been fully considered but they are not

persuasive.

- In the remarks, Applicant argues that:

(a)   In regard to independent claims 1, 15 and 20 cited reference does not disclose or suggest

"determining the type of operating system"

(b)   In regard to independent claims 1, 15 and 20 applicant submits that reference discloses

patch module and not target device performs the comparison.

Examiner's response:

Examiner disagrees.

(a)   Reference Mullen discloses application/OS configuration setting list include entries

where each entry identifies an operating system or application program. See paragraph [0023].

The entry identifies an operating system inherently includes the type of operating system.

(b)   In claim 1 recited "the installer program that executes on the computing device

comparing…" In reference Deshpande discloses in paragraph [0017] "The network management

tool 9 includes a patch module 10 used to install software patches on selected target devices."

Further in paragraph [0018] "The patch module 10 determines any patch dependencies required

by the patch 15, 16 or 17. If a dependency is required, the patch module 10 queries the target

device 20 to retrieve a software list 34 of the software currently installed on the target device.

The software list 34 is checked to determine whether the target device already includes the

software required by the selected patch 15, 16 and 17. If the target device 20 has been validated

and the software patch dependencies have been satisfied, the selected patch is installed on the

target device."

Conclusion

13.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Junchun Wu whose telephone number is 571-270-1250. The

examiner can normally be reached on 8:00-17:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.[1]

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

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[1]

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JW

/Wei Y Zhen/
Supervisory Patent Examiner, Art Unit 2191